

FILED 1st JUDICIAL DISTRICT COURT

Santa Fe County

8/11/2022 4:22 PM

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

REBECKAH AUBERTIN,

Plaintiff,

v.

Cause No. D-101-CV-2022-01459

**Case assigned to Biedscheid, Bryan
Judge _____**

**JIMMY A. CASTLE,
AC FREIGHT SOLUTIONS, INC.,
LENITA'S EXPRESS, INC., and
FIRST GUARD INSURANCE COMPANY,**

Defendants.

**PLAINTIFF'S COMPLAINT
FOR DAMAGES AND PERSONAL INJURY**

COME NOW REBECKAH AUBERTIN, Plaintiff, by and through her counsel of record, Jeffery W. McElroy (Lovett Law Firm) in the above entitled and numbered cause, complaining of JIMMY A. CASTLE, AC FREIGHT SOLUTIONS, INC., LENITA'S EXPRESS, INC., and FIRST GUARD INSURANCE COMPANY, hereinafter referred to as Defendants, and file this Complaint and for cause of action would show this Honorable Court as follows:

**I.
JURISDICTION AND VENUE**

1. This Court has jurisdiction and venue is proper in Santa Fe County, New Mexico because Defendant FIRST GUARD INSURANCE COMPANY is a foreign corporation that can be sued in any county in the state of New Mexico.

**II.
PARTIES AND SERVICE**

2. Plaintiff is a resident of Benton County, Washington.

EXHIBIT

1

1

2.1. Defendant JIMMY A. CASTLE is a resident of Lehigh County, Pennsylvania. He may be served with the process of service at 6854 Hunt Drive, Macungie, Pennsylvania 18062, or wherever he may be found.

2.2. Defendant AC FREIGHT SOLUTIONS, INC. is a corporation doing business in Illinois. They may be served through their registered agent for service of process as follows: Angela Cordova, 205 N. Nolton Ave., Willow Springs, Illinois 60480, or wherever they may be found.

2.3. Defendant LENITA'S EXPRESS, INC. is a business corporation doing business in Lehigh County, Pennsylvania. They may be served through their registered agent for service of process as follows: Jimmy A. Castle as Registered Agent, 6854 Hunt Drive, Macungie, Pennsylvania 18062, or wherever they may be found.

2.4. Defendant FIRST GUARD INSURANCE COMPANY is a foreign corporation doing business in Maricopa County, Arizona. They may be served through their registered agent for service of process as follows: C T Corporation System, 7700 E. Arapahoe Rd., Suite 220, Centennial, Colorado 80112-1268, or wherever they may be found.

2.5. Plaintiff hereby notifies all parties that the designated email for service for all matters included, but not limited to discovery, motions, and pleadings, is:

gealit@loewtonglawfirm.com

III.
RESPONDEAT SUPERIOR/VICARIOUS LIABILITY

3. Defendant JIMMY A. CASTLE was an employee and/or agent, and/or subcontractor of Defendants AC FREIGHT SOLUTIONS, INC. and LENITA'S EXPRESS, INC. and was in the course and scope of his respective agency, servitude or employment and was under the direct control of Defendants AC FREIGHT SOLUTIONS, INC. and LENITA'S EXPRESS,

INC. at the time of the incident. Alternatively, Defendant JIMMY A. CASTLE was the actual or apparent agent, borrowed servant, contract agent, or partner or officer in the business entity referred to as Defendants AC FREIGHT SOLUTIONS, INC and LENITA'S EXPRESS, INC.

3.1. Therefore, since Defendant JIMMY A. CASTLE was an agent, servant, representative, and/or employee, and/or subcontractor of Defendants AC FREIGHT SOLUTIONS, INC. and LENITA'S EXPRESS, INC. and was at the time of the incident made the basis of this lawsuit, acting within the course and scope of his employment for Defendants AC FREIGHT SOLUTIONS, INC. and LENITA'S EXPRESS, INC., then pursuant to the doctrine of Respondeat Superior, the agent, servant, representative and/or employee, and/or subcontractor's negligent acts and/or omissions are imputed to Defendants AC FREIGHT SOLUTIONS, INC. and LENITA'S EXPRESS, INC.

IV.
MISNOMER

4. In the event any parties are misnamed or not included herein, it is Plaintiff's contention that such was a "misnomer" and/or such parties are/were "alter egos" of parties named herein. Alternatively, Plaintiff contends that such "corporate veils" should be pierced to hold such parties properly included in the interest of justice. In the event that the true parties are misidentified, Plaintiff hereby asserts reliance upon the doctrine of misidentification.

V.
FACTS

5. This is a suit for personal injuries and damages sustained by Plaintiff as a result of an automobile/bicyclist collision that occurred on or about September 17, 2021. More specifically, Plaintiff REBECKAH AUBERTIN was traveling east in the shoulder lane of Broadway on her bicycle in Sierra County, New Mexico. Defendant JIMMY A. CASTLE who was also traveling

east on Broadway, in a semi-truck, struck Plaintiff and continued driving east on Broadway. Defendant did not engage the brakes when he carelessly struck Plaintiff, nor did he stop to render aid.

5.1. Law enforcement located Defendant JIMMY A. CASTLE via video surveillance, issued citations to Defendant for careless driving and accidents involving death or personal injuries and issued a warrant for the arrest of Defendant.

VI.
NEGLIGENCE OF DEFENDANT JIMMY A. CASTLE

6. Plaintiff would show that at the time on the occasion in question, Defendant JIMMY A. CASTLE failed to use ordinary care in the following particulars:

- a. Failure to keep proper lookout;
- b. Failure to stop;
- c. Failure to control speed;
- d. Failure to timely apply the brakes in order to avoid the collision;
- e. Failure to turn to the right or left to avoid the collision;
- f. Failure to exercise due care;
- g. Driver inattention; and
- h. Failure to render aid.

6.1. Each of such acts and omissions, singularly or in combination with others constituted negligence and negligence per se which proximately caused the collision and the injuries to Plaintiff.

VII.

NEGLIGENCE OF DEFENDANT AC FREIGHT SOLUTIONS, INC.

7. The incident and Plaintiff's injuries suffered by reason thereof were proximately caused by Defendant AC FREIGHT SOLUTIONS, INC.'s negligent and careless disregard of duty which consisted of, but is not limited to, the following acts and omissions:

- a. In failing to prevent their agent and employee Defendant JIMMY A. CASTLE from striking Plaintiff on her bicycle;
- b. In failing to train staff on proper driving techniques and strategies in order to avoid an accident/incident; and
- c. In failing to properly train and supervise its staff in a manner such that they would not injure the public.

7.1. Each of the aforementioned negligent acts or omissions of the Defendant AC FREIGHT SOLUTIONS, INC. constituted a proximate cause of the incident and of the resulting damages and injuries to Plaintiff.

VIII.

NEGLIGENCE OF DEFENDANT LENITA'S EXPRESS, INC.

8. The incident and Plaintiff's injuries suffered by reason thereof were proximately caused by Defendant LENITA'S EXPRESS, INC.'s negligent and careless disregard of duty which consisted of, but is not limited to, the following acts and omissions:

- a. In failing to prevent their agent and employee Defendant JIMMY A. CASTLE from striking Plaintiff on her bicycle;
- b. In failing to train staff on proper driving techniques and strategies in order to avoid an accident/incident; and

c. In failing to properly train and supervise its staff in a manner such that they would not injure the public.

8.1. Each of the aforementioned negligent acts or omissions of the Defendant LENITA'S EXPRESS, INC. constituted a proximate cause of the incident and of the resulting damages and injuries to Plaintiff.

IX.
NEGLIGENCE OF DEFENDANT FIRST GUARD INSURANCE COMPANY

9. At the time of the incident, Defendant JIMMY A. CASTLE was insured by a policy of insurance issued by Defendant FIRST GUARD INSURANCE COMPANY, policy number unknown, which afforded an unknown amount in liability coverage.

9.1 Based upon these acts individually and collectively, Defendants are a proper party in New Mexico for participation in the litigation. Each of the preceding acts or omissions of Defendants, whether taken separately or together, were a proximate cause of this incident and this, the injuries and damages sustained by Plaintiff REBECKAH AUBERTIN as a result thereof.

X.
DAMAGES FOR PLAINTIFF

10. As a proximate result of this collision, Plaintiff REBECKAH AUBERTIN sustained the following serious personal injuries: concussion with loss of consciousness, T1, T6 and T7 vertebrae were crushed, scapula was crushed, collapsed lung, closed head injury, traumatic brain injury, six broken ribs, and body as a whole.

10.1. Plaintiff seeks to recover for her past and future medical expenses, past and future physical pain and suffering and mental anguish, past and future physical impairment, and other incurred expenses.

10.2. By reason of the above and foregoing, Plaintiff has been damaged and will be damaged in the future in a sum in excess of the minimum jurisdictional limits of this Court.

INTERROGATORIES AND REQUESTS FOR PRODUCTION
TO DEFENDANTS JIMMY A. CASTLE, AC FREIGHT SOLUTIONS, INC.,
AND FIRST GUARD INSURANCE COMPANY, RESPECTIVELY

Please take notice that pursuant to New Mexico Rules of Civil Procedure, Plaintiff REBECKAH AUBERTIN serves the attached interrogatories and requests for production, marked hereto as Exhibits A, B, and C, to be propounded upon Defendants. The attached interrogatories and requests for production are incorporated by reference as if set forth fully at length. Defendants are hereby instructed to answer the following interrogatories separately, fully, in writing under oath as required by New Mexico Rules of Civil Procedure. The answers and responses shall be served upon the undersigned counsel 45 days after service of these interrogatories and requests for production. Further, demand is made for supplementation of Defendants' answers and responses to the interrogatories and requests for production as required by the New Mexico Rules of Civil Procedure.

THIS SPACE IS INTENTIONALLY LEFT BLANK

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that she recovers judgment against the Defendants for her actual damages as she may appear at trial hereof, post-judgment interest as allowed by law, taxable court costs, and such other relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,
LOVETT LAW FIRM
619 Arizona Avenue
El Paso, Texas 79902
(915) 757-9999
(915) 595-4166 Facsimile

BY: */s/ Jeffery W. McElroy*
JEFFERY W. McELROY
NM State Bar No. 14383
jmcelroy@lovettlawfirm.com

Attorney for Plaintiff

EXHIBIT "A"
INSTRUCTIONS AND DEFINITIONS IN DISCOVERY REQUESTS

A. INSTRUCTIONS

For any requested information about a document that no longer exists or cannot be located, identify the document, state how and when it passed out of existence, or when it would no longer be located, and the reason(s) for the disappearance. Also, identify each person having knowledge about the disposition or loss and identify of each document evidencing the existence or nonexistence of each document that cannot be located.

B. DEFINITIONS

The following definitions shall have the following meanings, unless the context requires otherwise:

1. "Defendant" means Defendant, her agents, representatives, and all other persons acting in concert with her, or under her control, whether directly or indirectly, including any attorney.
2. "You" or "your" means Defendant, her successors, predecessors, divisions, subsidiaries, present and former officers, agents, employees, and all other persons acting on behalf of Defendant, her successors, predecessors, divisions, and subsidiaries.
3. "Document(s)" means all written, typed, or printed matter and all magnetic or other records or documentation of any kind or description (including, without limitation, letters, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations, conferences, inter-office communications, E-mail, microfilm, bulletins, circular, pamphlets, photographs, facsimiles, invoices, tape recording, computer printouts and work sheets), including drafts and copies not identical to the originals, all photographs and graphic matter, however produced or reproduced, and all compilations of data from which information can be obtained, and any and all writings or recordings of any type or nature, in your actual possession, custody, or control, including those in the possession, custody, or control of any and all present or former directors, officers, employees, consultants, accountants, attorneys, or other agents, whether or not prepared by you. A draft or non-identical copy is a separate document within the meaning of this term.
4. "File" means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections of documents maintained, held, or stored in folders, notebooks, or other devices for separating or organizing documents.
5. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.
6. "Communication" means any oral or written communication of which the Defendant has knowledge, information, or belief.

PLAINTIFFS' INTERROGATORIES TO DEFENDANT

1. Please state the full name, address, telephone number, date of birth, social security number, driver's license number, occupation, job title and present employer of the person or persons answering these interrogatories.

ANSWER:

2. State in your own words how the incident made the basis of this lawsuit occurred.

ANSWER:

3. Pursuant to New Mexico Rules of Civil Procedure, regarding each expert used by you for consultation and who is not expected to be called as an expert witness at trial and whose opinion or impressions have been reviewed by a testifying expert, please provide the following:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which each such expert was consulted;
- (3) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with the case regarding when and how the factual information was acquired;
- (4) the expert's mental impressions and opinions formed or made in connection with this case, and any methods used to derive them; and,
- (5) the expert's current resume and bibliography.

ANSWER:

4. Please list all convictions of Defendant for felonies and crimes involving moral turpitude, regardless of punishment, that occurred in the past ten (10) years, including the state, county, and court in which the conviction occurred.

ANSWER:

5. Please identify all civil actions for the last ten (10) years in which you were a Defendant involving claims for personal injuries involving vehicular accidents/collisions.

ANSWER:

6. From where had you come and to where were you going at the time the incident made the basis of this lawsuit occurred?

ANSWER:

7. If you consumed any alcoholic beverages, any type of drugs, prescriptions or otherwise, or any other form of intoxicant, within the twenty-four (24) hour period immediately prior to the incident in question, please state the type of substance consumed, and the date and time each was consumed.

ANSWER:

8. For the ten (10) years preceding the incident in question give the date and place of every previous vehicular collision in which you have been involved.

ANSWER:

9. For the ten (10) years preceding the incident in question give the date and nature of each and every traffic offense of which you have been charged or cited, including whether you have had your driver's license revoked or suspended. If so, when, and why.

ANSWER:

10. Describe what you did immediately after the incident and the names of any persons you talked to about this incident within one month after the date of the incident.

ANSWER:

11. If you deny that the motor vehicle accident made subject of this lawsuit caused the need for Plaintiffs' medical treatment, please identify which dates of treatment you allege were not related to the motor vehicle accident.

ANSWER:

12. If you contend that any opinion rendered by any of Plaintiffs' health care providers in the reports provided within the course of this lawsuit (either before or after the date of these interrogatories) are not "reliable," please state the substance of that opinion and describe the basis for your contention.

ANSWER:

13. If you are alleging that Plaintiffs did anything wrong to cause this accident, please describe what you are alleging Plaintiffs did wrong.

ANSWER:

14. If your vehicle had any mechanical defects prior to the time of the collision, please list those defects and state the date on which they were discovered, by whom they were discovered, and the name and address of any person or company that repaired or attempted to repair the alleged defects.

ANSWER:

15. On the date of the incident, describe the vehicle you were driving. If you will, please include information on ownership and the operating condition of the vehicle. State the name, address and phone number of any person who examined the vehicle for damages arising from this incident.

ANSWER:

16. Did you give a statement to anyone regarding the incident and if so, indicate the name, address, and telephone number of the person to whom you gave the statement, contents of the statement, and if you gave more than one statement, give the same information regarding each statement.

ANSWER:

17. State in detail any damages you claim to have sustained from the incident.

ANSWER:

18. Describe any citation, arrest, claim or other charge that may have been issued you as a result of the incident, including grounds for same and the result of any hearing or judgment on the same, the date of such bearing or judgment and any fine, sentence or other penalty imposed.

ANSWER:

19. Describe any other accidents, incidents, license suspension or revocation or traffic citations you have been involved in. Include the dates, location, name, parties, witnesses, nature and extent of damages, hearings, lawsuits, orders, fines, penalties, judgments, or convictions arising therefrom, including the details of driver's license suspension or revocation actions, if any.

ANSWER:

20. Please state all of your driver's license numbers, states of issuance, expiration dates, any other states you are or have been licensed to operate a motor vehicle, and driver's license numbers for those states, the date you were first licensed to drive, and any date your license was suspended or not renewed.

ANSWER:

21. State the names, addresses and phone numbers of all persons in the vehicle with you at the time of the incident.

ANSWER:

22. State your cell phone number, provider, and phone number at the time of this occurrence and any person(s) who you talked to within 20 minutes of this incident.

ANSWER:

23. Were you using your cell phone at the time when the incident happened?

ANSWER:

24. Please state any restrictions that are placed on your ability to drive (e.g., corrective lenses).

ANSWER:

25. Describe the incident and each act or omission of each person in the incident. Do not answer each subcategory separately, but please direct your attention to the following details in answering this interrogatory:

- A. Please state everything that you did, in the order in which it was done, in an attempt to avoid the incident. If you applied the brakes or horn at any time prior to the incident, please state as to your motor vehicle, the speed, and the approximate distance in feet from the point of the incident when you so applied the brakes or horn, stating what was used. If there were any tire marks or any other marks on the road as a result of the incident, kindly describe the marks on the road as a result of the incident, kindly describe the marks in detail giving the length and location on the road surface and identify which motor vehicle cause each mark.
- B. Please state everything Plaintiffs did or failed to do, which contributed to the incident.
- C. If there were any obstructions to your view at or near the scene of the incident, please describe each such obstruction in detail, giving its location with relation to the incident.
- D. If at the time and place of the incident the visibility of the highway was limited or decreased from normal in any way due to glare, design, obstacles, weather, or other condition please describe in complete detail each and every such condition and every action taken to overcome or diminish the adverse effect of each such condition.
- E. If there were any traffic controls, speed limit signs, signals, lights, or other devices located at or near the place of the incident which were in any way involved in the happening of the incident, please describe such control or device indicating the direction of traffic controlled by such device and the manner in which it was involved in the incident.

ANSWER:

PLAINTIFFS' REQUESTS FOR PRODUCTION TO DEFENDANT

1: Please produce all statements previously made by Defendant or Plaintiffs concerning the subject matter of this lawsuit; including any written statement signed or otherwise adopted or approved by Plaintiffs hereto and any stenographic, mechanical, electrical, or other type of recording or any transcription thereof made by Plaintiffs hereto and contemporaneously recorded.

RESPONSE:

2: Please produce all photographs or other tangible things evidencing the scene or vehicles in question.

RESPONSE:

3: Please produce all exhibits which you may use at the trial of this cause.

RESPONSE:

4: Please produce all medical doctors', medical providers' or counselors' records, narratives reports, statements and/or bills pertaining to medical treatment of Plaintiffs.

RESPONSE:

5: Please produce a copy of any and all statements previously made by any person with knowledge of the facts or circumstances of this case including any written statements signed or otherwise adopted or approved by witness and any stenographic, mechanical, electrical, or other type of recording or a transcription thereof made by the witness and contemporaneously recorded.

RESPONSE:

6: Please produce a copy of all medical records, narratives, reports, statements, and/or copies of any unpaid medical bills that have been presented for payment pertaining to the medical treatment of Plaintiffs which is made the basis of this lawsuit.

RESPONSE:

7: Please produce all settlement agreements with any other persons, firms, corporations, etc., for any liability or damages arising out of the incident made the basis of this lawsuit

RESPONSE:

8: Please produce a certified copy of your driving record from any state agency where you are or have been licensed as an automobile driver at any time in the last ten years.

RESPONSE:

9: Please produce all photographs, diagrams, schematics, charts or other graphic depictions of the incident or damages made the basis of this lawsuit.

RESPONSE:

10: Please produce a legible and current copy of your driver's license, front and back.

RESPONSE:

11: Please produce all copies of any reports, notes, or other written materials of any kind from any expert who has been consulted by Defendant either through employees, agents, representatives, or attorneys, whose opinions or impressions have been reviewed by a testifying expert.

RESPONSE:

12: Please produce all investigation materials, witness statements, notes, photographs, diagrams, or other material prepared by an insurance carrier insuring Defendant and created prior to Defendant's hiring of an attorney to defend against this lawsuit.

RESPONSE:

13: Please produce all incident reports or documentation evidencing Plaintiffs' injuries or the collision made the basis of this lawsuit created prior to Defendant's hiring of an attorney to defend against this lawsuit.

RESPONSE:

14: Please produce all investigation materials, witness statements, notes, photographs, diagrams, property damage estimates, or other material prepared by the insurance carrier insuring the automobiles, drivers, or passengers involved in this accident and created prior to Defendant's hiring of an attorney to defend against this lawsuit.

RESPONSE:

15: Please produce all police reports, investigation reports, accident reports, or the like concerning the accident made the basis of this suit.

RESPONSE:

16: Inspection and photographing of the vehicle involved in the collision made the subject of this suit.

RESPONSE:

17: The Declaration Sheet and policy of insurance insuring Defendant in this claim.

RESPONSE:

18: Any photographs, drawings, sketches, video recordings, motion pictures, tapes, recordings, graphic depiction, or other tangible evidence concerning the scene of the accident, the vehicles involved in the collision or Plaintiffs.

RESPONSE:

19: All estimates, work orders, salvage estimates, maintenance records and pictures of the vehicles involved in the collision made the subject of this suit.

RESPONSE:

20: Any suspensions, revocations, or notice thereof, and all related documents concerning your license to operate motor vehicles.

RESPONSE:

21: All ownership documents on the vehicle in question.

RESPONSE:

22: Any indictments, convictions, charges, and findings on any criminal charge made against you.

RESPONSE:

23: List of your traffic violations.

RESPONSE:

24: All medical records and bills you receive of Plaintiffs from another source besides Plaintiffs producing it.

RESPONSE:

25: A copy of the title to the vehicle being driven or owned by Defendant at the time in question.

RESPONSE:

26: A copy of any surveillance movies or photographs which have been made of Plaintiffs.

RESPONSE:

27: A copy of any survey or plat made of the accident scene.

RESPONSE:

28: Any and all documents reflecting any disciplinary action for this incident taken against you.

RESPONSE:

29: Produce a copy of your cell phone statement showing incoming and outgoing calls for the month when the incident made the basis of this suit happened. In lieu thereof, please complete and return the attached Authorization for Release of Cell Phone Records.

RESPONSE:

30: Any documents showing the acts or omissions of any party responsible in any way for the injuries to Plaintiffs.

RESPONSE:

31: Any information you obtain, regarding Plaintiffs, from another source besides the Plaintiffs producing it.

RESPONSE:

32: All photographs of the vehicle being driven or owned by Defendant that were taken as a result of the collision made the basis of this suit.

RESPONSE:

33: Please provide any information you have which suggests Plaintiffs, Defendant, or any witness identified in this lawsuit, including expert and consulting witnesses, has been convicted of a crime which was a felony or one which involved moral turpitude. Please state the nature of the crime, date of conviction, court/county of conviction) disposition, and if probation was imposed, please state if the probation was successfully completed.

RESPONSE:

STATE OF _____

COUNTY OF _____

AUTHORIZATION FOR RELEASE OF CELL PHONE RECORDS

I, JIMMY A. CASTLE, hereby authorize my cell phone company to release the following records:

my cell phone record for the date of September 17, 2021, ONLY to the following:

Jeffery W. McElroy
LOVETT LAW FIRM
619 Arizona Avenue
El Paso, Texas 79902
915/757-9999
FAX: 915/545-4166

The name of my cell phone company on September 17, 2021: _____.

My cell phone number or account number on September 17, 2021: _____.

JIMMY A. CASTLE

SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of _____,
2022, to certify which witness my hand and official seal.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires:

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
8/11/2022 4:22 PM
KATHLEEN VIGIL CLERK OF THE COURT
Liliana M Villalobos

REBECKAH AUBERTIN,

Plaintiff,

v.

Cause No. D-101-CV-2022-01459

Judge Case assigned to Biedscheid, Bryan

**JIMMY A. CASTLE,
AC FREIGHT SOLUTIONS, INC.,
LENITA'S EXPRESS, INC., and
FIRST GUARD INSURANCE COMPANY,**

Defendants.

COURT ANNEXED ARBITRATION CERTIFICATION

Plaintiff by and through her undersigned counsel, pursuant to First Judicial District Local Rule, Rule LR3-706B, certify as follows:

[] This party seeks only a money judgment and the amount sought does not exceed twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney fees.

[X] This party seeks relief other than a money judgment and/or seeks relief in excess of twenty-five thousand dollars (\$25,000.00) exclusive of punitive damages, interest, costs, and attorney fees.

Respectfully submitted,

LOVETT LAW FIRM
541 N. Alameda Blvd.
Las Cruces, New Mexico 88005
575.523.5555
575.526.3925 Facsimile

BY: /s/ Jeffery W. McElroy
JEFFERY W. McELROY
NM State Bar No. 14383
jmcelroy@lovettlawfirm.com

Attorney for Plaintiff

FILED 1st JUDICIAL DISTRICT COURT

Santa Fe County

8/11/2022 4:22 PM

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

REBECKAH AUBERTIN,

Plaintiff,

v.

Cause No. D-101-CV-2022-01459

Judge Case assigned to Biedscheid, Bryan

**JIMMY A. CASTLE,
AC FREIGHT SOLUTIONS, INC.,
LENITA'S EXPRESS, INC., and
FIRST GUARD INSURANCE COMPANY,**

Defendants.

DEMAND FOR TRIAL BY JURY

COMES NOW Plaintiff REBECKAH AUBERTIN, by and through her attorney of record, Jeffery W. McElroy of the Lovett Law Firm, and hereby demands trial of all factual issues herein by a jury of six (6) persons and herewith deposits the sum of One Hundred Fifty Dollars (\$150.00) for same with the Court Clerk.

Respectfully submitted,

**LOVETT LAW FIRM
541 N. Alameda Blvd.
Las Cruces, New Mexico 88005
575.523.5555
575.526.3925 Facsimile**

BY: /s/ Jeffery W. McElroy
JEFFERY W. McELROY
NM State Bar No. 14383
jmcelroy@lovettlawfirm.com

Attorney for Plaintiff

STATE OF NEW MEXICO, COUNTY OF SANTA FE, FIRST JUDICIAL DISTRICT

REBECKAH AUBERTIN

Case No.: D-101-CV-2022-01459

Plaintiff/Petitioner

vs.

JIMMY A CASTLE; AC FREIGHT SOLUTIONS INC.;
LENITA'S EXPRESS INC; FIRST GUARD INSURANCE
COMPANY

Defendant/Respondent

AFFIDAVIT OF SERVICE OF
SUMMONS; PLAINTIFF'S COMPLAINT FOR DAMAGES
AND PERSONAL INJURY; EXHIBITS; DISCOVERY
REQUESTS

Received by Roger Thomas Rohrbach, on the 15th day of August, 2022 at 6:03 PM to be served upon Lenita's Express, Inc. c/o Jimmy A. Castle at 6854 Hunt Drive, Macungie, Lehigh County, PA 18062. On the 16th day of August, 2022 at 6:14 PM, I, Roger Thomas Rohrbach, SERVED Lenita's Express, Inc. c/o Jimmy A. Castle at 6854 Hunt Drive, Macungie, Lehigh County, PA 18062 in the manner indicated below:

CORPORATE SERVICE, by personally delivering 1 copy(ies) of the above listed documents to the named Corporation, by serving Elena Schaeffer, on behalf of said Corporation.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
I delivered the documents to Elena Schaeffer who indicated they were the co-resident with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a gray-haired white female contact 55-65 years of age, 5'8"-5'10" tall and weighing 140-160 lbs with an accent.

Service Fee Total: \$95.00

Per U.S. Code § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

NAME: Roger Thomas Rohrbach 8/11/23
Roger Thomas Rohrbach Server ID # Date

Notary Public: Subscribed and sworn before me on this 17 day of August in the year of 2022
Personally known to me ✓ or identified by the following document:

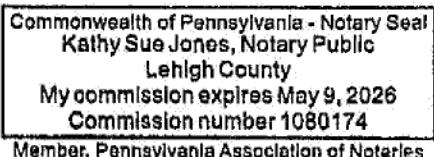
Kathy Sue Jones
Notary Public (Legal Signature)

Number/Reference: _____

Type: _____

Notary Public for State of: _____

Commission Expiration: _____



REF: REF-10669688

Page 1 of 1

Tracking #: 0091306502



STATE OF NEW MEXICO, COUNTY OF SANTA FE, FIRST JUDICIAL DISTRICT

REBECKAH AUBERTIN

Case No.: D-101-CV-2022-01459

Plaintiff/Petitioner

vs.

JIMMY A CASTLE; AC FREIGHT SOLUTIONS INC.;
LENITA'S EXPRESS INC; FIRST GUARD INSURANCE
COMPANY

Defendant/Respondent

AFFIDAVIT OF SERVICE OF
SUMMONS; PLAINTIFF'S COMPLAINT FOR DAMAGES
AND PERSONAL INJURY; EXHIBITS; DISCOVERY
REQUESTS

Received by Roger Thomas Rohrbach, on the 15th day of August, 2022 at 6:02 PM to be served upon Jimmy A. Castle at 6854 Hunt Drive, Macungie, Lehigh County, PA 18062.

On the 16th day of August, 2022 at 6:14 PM, I, Roger Thomas Rohrbach, SERVED Jimmy A. Castle at 6854 Hunt Drive, Macungie, Lehigh County, PA 18062 in the manner indicated below:

SUBSTITUTE SERVICE, by personally leaving 1 copy(ies) of the above-listed documents at his/her usual place of abode with Elena Schaeffer, who is 16 years of age or older, a person residing therein of who confirmed the Defendant resides at the above address and informed that person of the contents thereof.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
I delivered the documents to Elena Schaeffer who indicated they were the co-resident with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a gray-haired white female contact 55-65 years of age, 5'8"-5'10" tall and weighing 140-160 lbs with an accent. Olenna stated that Jimmy was out of town

Service Fee Total: \$95.00

Per U.S. Code § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

NAME: Roger Thomas Rohrbach
Roger Thomas Rohrbach

Server ID #

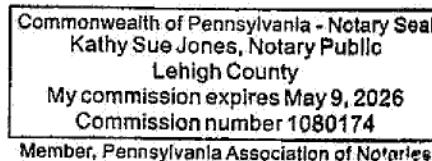
8/17/22

Date

Notary Public: Subscribed and sworn before me on this 17 day of August in the year of 2022
Personally known to me ✓ or _____ identified by the following document:

Number/Reference: _____

Type: _____

Notary Public for State of: _____
Commission Expiration: _____Notary Public (Legal Signature) Kathy Sue Jones

Member, Pennsylvania Association of Notaries



REF: REF-10669688

Page 1 of 1

Tracking #: 0091306449



FILED 1st JUDICIAL DISTRICT COURT

Santa Fe County

9/15/2022 2:19 PM

STATE OF NEW MEXICO, COUNTY OF SANTA FE, FIRST JUDICIAL DISTRICT

KATHLEEN VIGIL CLERK OF THE COURT

Liliana M Villalobos

REBECKAH AUBERTIN

Case No.: D-101-CV-2022-01459

Plaintiff/Petitioner

vs.

JIMMY A CASTLE; AC FREIGHT SOLUTIONS INC.;
LENITA'S EXPRESS INC; FIRST GUARD INSURANCE
COMPANY

Defendant/Respondent

AFFIDAVIT OF SERVICE OF
SUMMONS; PLAINTIFF'S COMPLAINT FOR DAMAGES
AND PERSONAL INJURY; EXHIBITS; DISCOVERY
REQUESTS

Received by **Moriah Matlock**, on the **15th day of August, 2022 at 3:45 PM** to be served upon **First Guard Insurance Company c/o C T Corporation System at 7700 East Arapahoe Road suite 220, Centennial, Arapahoe County, CO 80112**.

On the **17th day of August, 2022 at 10:30 AM**, I, **Moriah Matlock**, **SERVED** First Guard Insurance Company c/o C T Corporation System at 7700 East Arapahoe Road suite 220, Centennial, Arapahoe County, CO 80112 in the manner indicated below:

CORPORATE SERVICE, by personally delivering 1 copy(ies) of the above listed documents to the named Corporation, by serving **Corp 1**, on behalf of said Corporation.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
I delivered the documents to Corp 1 who indicated they were the person authorized to accept with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white female contact 18-25 years of age, 5'-5'4" tall and weighing 80-120 lbs.

Service Fee Total: \$95.00

Per U.S. Code § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

NAME:

Mariah Matlock

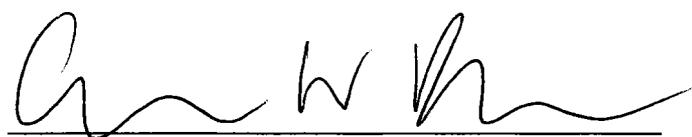
Mariah Matlock

Server ID #

Date

9/2/22

Notary Public: Subscribed and sworn before me on this 2nd day of September in the year of 2022
 Personally known to me Mariah or _____ identified by the following document:



Notary Public (Legal Signature)

Number/Reference: _____

Type: _____

Notary Public for State of: Colorado
 Commission Expiration: 08/06/2025

CODY W. BURCH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214031304
MY COMMISSION EXPIRES 08/06/2025



REF: REF-10669688

Page 1 of 1

Tracking #: 0091337943



FILED 1st JUDICIAL DISTRICT COURT
Santa Fe County
DISTRICT 9/15/2022 2:19 PM
ATHLEEN VIGIL CLERK OF THE COURT
Liliana M Villalobos
2022-21-152

REBECKAH AUBERTIN

Case No.: D-101-CV-2022-01459

Plaintiff/Petitioner

45

JIMMY A CASTLE; AC FREIGHT SOLUTIONS INC.;
LENITA'S EXPRESS INC; FIRST GUARD INSURANCE
COMPANY

Defendant/Respondent

**AFFIDAVIT OF SERVICE OF
SUMMONS; PLAINTIFF'S COMPLAINT FOR DAMAGES
AND PERSONAL INJURY; EXHIBITS; DISCOVERY
REQUESTS**

Received by Lavinia Charles, on the 16th day of August, 2022 at 8:57 AM to be served upon AC Freight Solutions, Inc. c/o Angela Cordova at 205 North Nolton Avenue, Willow Springs, Cook County, IL 60480. On the 2nd day of September, 2022 at 8:42 AM, I, Lavinia Charles, SERVED AC Freight Solutions, Inc. c/o Angela Cordova at 205 North Nolton Avenue, Willow Springs, Cook County, IL 60480 in the manner indicated below:

CORPORATE SERVICE, by personally delivering 1 copy(ies) of the above listed documents to the named Corporation, by serving Angela Doe, on behalf of said Corporation.

THE DESCRIPTION OF THE PERSON WITH WHOM THE COPY OF THIS PROCESS WAS LEFT IS AS FOLLOWS:
I delivered the documents to an individual who refused to give their name who indicated they were the person authorized to accept. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white female contact 35-45 years of age, 5'6"-5'8" tall and weighing 160-180 lbs with an accent.

Service Fee Total: \$95.00

Per U.S. Code § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

NAME: L Charles 129.262613 1-6-22
Lavinia Charles Server ID # Date

Notary Public: Subscribed and sworn before me on this 06 day of September in the year of 2022
Personally known to me: or identified by the following document:

Number/Reference: CB4253272342
Type: Driver's Lic
Notary Public for State of: Illinois
Commission Expiration: 11-13-2023

Notary Public (Legal Signature)

